

obstacles stand in our way. As long as Lexie Mae's parents have to borrow from their friends to take their daughter to the doctor, we can't take no for an answer. As long as Elizabeth Parsons can't afford to retire, Walt Cousineau can't afford to stay retired, and Ken Hansen says he can't afford to stay alive, we can't stop fighting for them.

ESTATE TAX REFORM

Mr. REID. Mr. President, on a final point, for some time now we Democrats have been trying to reform the estate tax to avoid the train wreck that is coming next month.

Because of the legislation passed by the Republicans in 2001, the estate tax is repealed for 2010—gone, nothing. But because of the gimmick they used to pass this legislation, the estate tax returns in 2011, and it does so at the levels that were in effect in 2001.

This chicanery has created a nightmare for families trying to plan their affairs.

We have proposed a responsible path forward toward curing the estate tax problem. We proposed to extend the current tax parameters so that in 2010 couples would be able to pass down up to \$7 million completely tax free. An estate tax at that level exempts all but the wealthiest two-tenths of 1 percent of estates from paying any estate tax.

The other side has rejected this reasonable approach. Instead, they want to keep the Bush tax law in place for 2010 as originally designed.

The irony in the Republicans' position is, it hurts the very families—small business men, women, and family farmers—whom they claim they are trying to help.

The surprise facing family farms and family-owned small businesses in 2010 is that repeal of the estate tax will actually increase their tax liabilities. These are families who would never pay the estate tax because they don't have assets totaling more than \$7 million for a couple.

So why do they face a tax increase? It has to do with a provision in the Tax Code called stepped-up basis. What does this mean? The assets of family-owned businesses are often in the form of unrealized capital gains, the appreciation of the family business over time. Right now, until the end of this year, December 31, these capital gains are forgiven when a person dies—no capital gains at death and for these families with less than \$7 million there is no estate tax under current law. Therefore, for these families, death is not a taxable event.

The capital gains tax is forgiven because the heirs to the property receive a step up in its basis for measuring tax liability when they ultimately sell the property.

The law my Republican colleagues insist go into place next month repeals stepped-up basis.

The bargain my Republican colleagues are advancing is simple. If you

are rich, celebrate. If you are not, you should be afraid. If you are very wealthy, you get a huge windfall from repeal of the estate tax. If you are modestly successful—say you have a shoe store, a service station, a small farm, or whatever small business—but not to the point where you are facing an estate tax liability, your heirs will, nonetheless, face a tax increase because of the repeal of the estate tax.

For the wealthiest families in this country, they say don't worry about that. The estate tax is gone. For many more small businesses, Republicans say that is too bad. All these years, as Republicans were using family farms and small businesses as props in their zeal to repeal the estate tax, their real goal was protecting the wealthiest of the wealthy. The unfortunate aspect of that campaign is that repeal of the estate tax, even for just 1 year, will come at the expense of family-owned farms and small businesses.

We asked, last night, and it will be asked again by the chairman of the Finance Committee, the senior Senator from Montana, Mr. BAUCUS, to extend the estate taxes that now exist, giving a couple an exemption of up to \$7 million for 2 months while we work things out on that and a number of other issues, but that has been rejected by my friends on the other side of the aisle.

I repeat: If the estate tax lapses for a period at the beginning of 2010, this will be a boon for the wealthy, a huge drain on the U.S. Treasury and, more importantly, let me also note that tens of thousands of middle-class families could suffer. If the estate tax lapses, even for a short period, these families will be subject to capital gains when they sell their inherited or bequeathed property, a process that will be enormously complicated for families who have no estate tax or planning issues today. Although this could be retroactively eliminated, in the meantime the uncertainty and planning around this would affect a large number of families who ordinarily don't have to think about the estate tax.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ORDER OF BUSINESS

Mr. MCCONNELL. Mr. President, I would ask my colleague, the majority leader, was it his intention to propound a unanimous consent request on this issue?

Mr. REID. I say to my friend, the chairman of the Finance Committee will do that.

Mr. MCCONNELL. All right. I will go ahead and make my opening remarks. I don't know when the chairman of the Finance Committee wanted to make this request. Did he want to make a speech in connection with it as well?

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, let me say to my friend from Kentucky, I will not make a lengthy speech, but I am more than prepared to wait until you give your comments, and when you conclude, I will make my request.

Mr. MCCONNELL. I would say to my friend from Montana, it would be helpful if you could go ahead and do the unanimous consent agreement, if you want to speak to the issue later.

Mr. BAUCUS. Well, other Senators wish to speak as well.

HEALTH CARE REFORM

Mr. MCCONNELL. Mr. President, reclaiming my leader time, the longer the debate over health care goes on, the clearer it becomes that the problem the Democrats are having isn't with some of the provisions we keep hearing about on the news; their problem is the fundamental opposition of the American people to the core components of the bill—the core of the bill.

Americans oppose the Democratic plan because they know the final product is a colossal legislative mistake. Not only does this bill fail to achieve its primary goal of lowering the cost of health care, it makes matters worse by driving up premiums, raising taxes, and wrecking Medicare for seniors.

The bill is fundamentally flawed, and the American people know it can't be fixed. That is why they are asking us to stop and start over with the kind of commonsense, step-by-step reforms that will address the cost problems.

Fortunately, a growing number of Democrats are beginning to listen to the voices of the American people. We have, just today, a Washington Post poll indicating, once again, the polls are unanimous that the American people are overwhelmingly opposed to this bill, and seniors in particular, by a very wide margin, do not favor this bill.

So our friends on the other side of the aisle face a choice. They can either side with those who are making a call to history or they can side with their constituents who say a vote on this bill would be a historic mistake.

That is what is unfolding behind the scenes: As a handful of Democratic leaders press ahead in a blind rush of frantic dealmaking to find 60 votes by Christmas, a handful of other Democrats are wondering which side they want to be standing on when the dust settles—with those who are pushing them to support a bill they don't like or with the American people who are imploring them not to do it.

This is an important moment in the life of our Nation. This is one of those moments when the free decisions of a handful of elected leaders are the only difference between America going down one road or another. History will be made either way. History will be made either way. But in this case, as in